

**REMARKS****Summary of the Office Action**

In the Office Action dated April 5, 2004, claims 1, 3-5, and 7-11 stand rejected under 35 U.S.C. §102(e) as being anticipated by Sunagawa (US 6,442,119).

Claims 2 and 6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Sunagawa in view of Honda et al. (US 5,559,785).

Claim 11 stands objected to because of minor informalities.

Title of the Invention stand objected to as being not descriptive.

Drawings stand objected to because FIGs. 8A-8C, and 9 are missing the appropriate annotations.

**Summary of Response to the Office Action**

Applicants thank the Examiner for the courtesies extended to his representatives during the telephone interview of July 27, 2004. The arguments presented during that interview as well as amendments to independent claims 1, 10, and 11 as a result of the interview will be explained here.

Applicants have amended the Title of the Invention, amended claims 1, 10 and 11 to further define the invention, and amended claim 11 in accordance with the Examiner's comment. Accordingly, claims 1-11 are presently pending. In addition, Applicants respectfully submit concurrently herewith a Submission of Replacement Drawings.

**Objection to the Specification**

The specification is objected to for allegedly having a Title of the Invention that is not descriptive. Accordingly, Applicants have amended the Title to recite "INFORMATION RECORD APPARATUS, INFORMATION RECORD METHOD, AND INFORMATION RECORD MEDIUM INCORPORATING RECORD POWER CALIBRATION METHOD." Thus, Applicants respectfully submit that the Title, as presently amended, is clearly indicative of the invention to which the claims are directed, and respectfully request that the objection to the specification be withdrawn.

**Objection to the Drawings**

The drawings are objected to because FIGs. 8A-8C, and 9 are not labeled as Prior Art. Applicants respectfully submit concurrently herewith a Submission of Replacement Drawings correcting the annotation. Accordingly, Applicants respectfully request that the objection to the drawings be withdrawn.

**All Claims Define Allowable Subject Matter**

Claims 1, 3-5 and 7-11 stand rejected under 35 U.S.C. §102(e) as being anticipated by Sunagawa (US 6,442,119) and claims 2 and 6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Sunagawa in view of Honda et al. (US 5,559,785). Applicants respectfully traverse the rejection of all claims, and respectfully request reconsideration of this application, withdrawal of all rejections, and the timely allowance of all pending claims.

Independent claim 1, as amended recites an information record apparatus, including in part, "the write section applies write light having a non-varying single predetermined emission power to record a record pit in the optical information medium; the feature extraction section optically reproduces a record state containing the record pit to produce a first signal waveform,

and extracts feature information of the record state based on the first signal waveform; and the control section controls the power adjustment section to set a plurality of write light each having a different emission power based on the feature information.” Similarly, independent claim 10 recites an information record method, including in part, “applying write light having a non-varying single predetermined emission power emitted from a light source to record a record pit in the optical information record medium.” Furthermore, independent claim 11, as amended recites an information record medium, including in part, “applying write light having a non-varying single predetermined emission power emitted from a light source to record a record pit in the optical information record medium.” Applicants respectfully submit that at least these features of amended independent claims 1, 10, and 11 are neither taught nor suggested by Sunagawa.

The Office Action alleges that Sunagawa discloses (col. 8, lines 29-31) an information record apparatus including in part, a light source for emitting the write light having a predetermined power; and a power adjustment section for adjusting the emission power of the write light (FIG. 9, element SC5). Applicants respectfully disagree. Applicants respectfully submit that Sunagawa teaches at col. 5, lines 5-16, and col. 8, lines 28-38, that 1st OPC is performed based on the laser powers of different sets that varies the recording or bottom powers around the selected initial recording or bottom power in order to determine 15 different sets of emission powers (15 different sets of a recording and a bottom powers).

In contrast, Applicants' claimed invention performs 1st OPC with a non-varying single predetermined power to determine a single feature information (i.e.,  $\beta$  value, reference to 2nd OPC), so that the second OPC is performed successively. As pointed out in MPEP §2131, "[t]o anticipate a claim, the reference must teach every element of the claim." Thus, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987).

Accordingly, Applicants respectfully submit that Sunagawa does not teach or suggest at least "the write section applies write light having a non-varying single predetermined emission power", and "applying write light having a non-varying single predetermined emission power emitted from a light source," as recited in the amended independent claims 1, 10, and 11. Thus, Applicants respectfully request that the rejection of independent claim 1, 10, and 11, as amended, under 35 U.S.C. §102(b) be withdrawn. Furthermore, Applicants respectfully submit that dependent claims 2-9 are allowable at least because of their dependency from independent claim 1, as amended, and the reasons as set forth above.

**CONCLUSION**

In view of the foregoing remarks, Applicants respectfully request reconsideration of this application, withdrawal of all rejections, and the timely allowance of all pending claims 1-35. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution. If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.R.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

By: Mary Jane Boswell  
Mary Jane Boswell  
Registration No. 33,652

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Customer No. 09629

**MORGAN, LEWIS & BOCKIUS LLP**

1111 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

Telephone: (202) 739-3000

Facsimile: (202) 739-3001